IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4716 OF 2006

Shri.Sukhadeo Namdeo Kashid .. Petitioner
V/s.
Shri.Vithoba Namdeo Kashid .. Respondents.
& Ors.

Shri.S.S.Patwardhan for the petitioner.

CORAM : A.P.DESHPANDE, J.

DATE : 13TH November, 2006.

P.C.

The respondent No.1 had filed R.C.S.No.48 of 1989 against the petitioner. The petitioner filed a purshis and admitted the claim, consequent upon which the decree came to be passed. When the decree was sought to be executed, belatedly sometime in August, 2001, the petitioner filed an appeal and as there was delay in filing of the appeal, a Miscellaneous Civil Application was moved seeking condonation of delay by contending that the petitioner was never served with the suit summons

and he was wrongly proceeded against culminating in passing of the decree in favour of the respondent. Before the 1st Appellate Court, record was summoned but the suit summons which was in “D” part was found to be destroyed and hence the original summons was not available for inspection. The respondent produced certified copy of the suit summons along with list at Exh.41 and against the name of the petitioner, a thumb impression was found to be appearing and the bailiff has reported about the personal service of the summons on the applicant. The petitioner moved an application before the 1st Appellate Court making a request for referring the thumb impression on the purshis allegedly filed before the Trial Court admitting the claim to the hand writing expert. The 1st Appellate Court did send the purshis bearing the thumb impression of the petitioner along with admitted signature to the hand writing expert. The hand writing expert opined that the thumb

impression on the purshis is that of the present petitioner. In this view of the matter, the 1st Appellate Court came to the conclusion that the reason put forth for seeking condonation of delay viz. non service of the suit summons and non admission of the claim of the plaintiff by filing a purshis, to be non existent, and rejected the application. I have perused the order passed by the District Judge. No interference is called for. In the result, the writ petition is summarily dismissed.

(A.P.DESHPANDE,J)